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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/535,279	03/24/2000	Gang Lu	2762.2001-002	2501

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EXAMINER

HARRELL, ROBERT B

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 12/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/535,279	Applicant(s) LU ET AL.	
	Examiner Robert B. Harrell	Art Unit 2142	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-85 is/are pending in the application.
- 4a) Of the above claim(s) 41-85 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>see attached Office Action</u> .       |

Art Unit: 2142

1. Claims 1-85 are presented for examination.
2. The applicant's Election (filed 8/25/2004) of claims 1-40 (GROUP I) is hereby acknowledged. Group II contained claims 41-62 and Group III contains 63-85. Since the applicant failed to specifically declare the Election as one with or without traverse and since there is(are) no rebuttal(s) of the Election by the applicant, the election is treated as an election without traverse. Therefor, the restriction requirement(s) mailed 7/21/2004 is(are) hereby incorporated in this action in totality as maintained with Group I being claims 1-40, Group II being claims 41-62, and Group III being claims 63-85.
3. Claims 41-85 are withdrawn from further consideration as directed to non-elected inventions.
4. Claims 1-40 continue for further prosecution on the merits.
5. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
6. The Drawings are Objected to as being informal and poor quality not in compliance with 37 C.F.R.
7. All reference to United States Patent Applications (i.e., page 10 (line 6)) must be updated with the corresponding United States Patent Number, and if not patented the corresponding status (i.e., now abandoned, still pending, continued as application XYZ (and its status), exc...). Since the Specification is incomplete, the Specification stands Objected to.
8. The applicant should use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors, accuracy, assurance of proper use for Trademarks <sup>TM</sup>, and other legal symbols ®, where required, and clarity of meaning in the Specification, Drawings, and specifically the claims. Minor typographical errors could render a Patent unenforceable and so the applicant is strongly encouraged to aid in this endeavor.
9. The following is a quotation of the second paragraph of 35 U.S.C 112:  
  
**The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.**
10. Claims 1-40 are rejected under 35 U.S.C 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The scope of meaning of the following claim language is not clear:

Art Unit: 2142

- a) "the collected network address information"- claim 1 (lines 6-7);
- b) "the accessed permanent network configuration" – claim 26 (line 7)[\*note line 4, only the second node has been accessed not a network configuration\*];
- c) "the form" - claim 29 (line 8);
- d) "the other" – claim 29 (line 9).

11. As to 10 (a-d) above, these are but a few examples of numerous cases where clear antecedent bases are lacking and not an exhausting recital. Any other term(s) or phrase(s) overlooked by examiner and not listed above which start with either "the" or "said" and do not have a single proper antecedent bases also is indefinite for the reasons outlined in this paragraph. Also, these are but a few examples where term(s) or phrase(s) are introduced more than once without adequate use of either "the" or "said" for the subsequent use of the term(s) or phrase(s). Moreover, multiple introduction of a term, or changes in tense, results in a lack of clear antecedent bases for term(s) or phrase(s) which relied upon the introduced term. Failure to correct all existing cases where clear antecedent bases are lacking can be viewed as non-responsive.

12. Claim 1 recites "inter-node communication packets containing network address information other than an address assignment to the first network node". However, no address has yet been assigned to the first node and the scope of the claim is directed to a method for automatically assigning a network address to a first network node implying the first node has no address, yet, to be exclude from "network address information other than an address assignment to the first network node".

13. Per claim 32 (last line) and claim 34 (last line), it is not clearly certain who "assumes the retrieved network configuration".

14. Per claim 38, it is not certain how a processing device can automatically assign a network configuration to a network node coupled to a network by analyzing plural network communication packets. That is, the preamble starts with one topic (network configuration) while the body of the claim assigns a network address, not a network configuration. Thus, it is not clearly certain if a network configuration (configuration for a network) is the same as an address for a node. Node address and network configurations implies two different things.

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

**A person shall be entitled to a patent unless -**

**(e) the invention was described in — (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the**

Art Unit: 2142

**purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language;**

16. Claims 1-40 are rejected under 35 U.S.C. 102 (e) as being anticipated by Reed et al. (6,061,739).

17. Prior to addressing the grounds of the rejections below, should this application ever be the subject of public review by third parties not so versed with the technology (i.e., access to IFW through Public PAIR (as found on <http://portal.uspto.gov/external/portal/pair>)), this Office action will usually refer an applicant's attention to relevant and helpful elements, figures, and/or text upon which the Office action relies to support the position taken. Thus, the following citations are neither all-inclusive nor all-exclusive in nature as the whole of the reference is cited and relied upon in this action as part of the substantial evidence of record. Also, no temporal order was claimed for the acts and/or functions.

18. Per claim 1, Reed taught a method (e.g., see Abstract (line 1)) for automatically (e.g., see col. 3 (lines 44-45)) assigning a network address (e.g., see col. 3 (lines 53-54)) to a first network node (e.g., any one of those in figure 1 (12,14,16,20,22,24,26, and/or 28)) attached to a packet communication network (e.g., see figure 1 INTERNET (10) and Abstract (line 4) in that since ARP packets are submitted over the Internet, the Internet is a packet communication network), the method comprising the steps of:

- a) communicating with at least one other network node to collect information from inter-node communication packets containing network address information other than an address assignment to the first network node (e.g., see col. 4 (lines 22-25)) ;
- b) determining an available network address based on the collected network address information contained in the collected inter-node communication packets (e.g., see col.4 (lines 25-30)); and,
- c) applying the available network address to the first network node (e.g., see col. 4 (lines 19-22 and 31-39)).

19. Per claims 2 and 3, see col. 2 (line 39) where maintaining, such as copying or adding used addresses into, an "ARP cache" was a list of used addresses on the network.

20. Per claim 4, see Abstract (ARP packets) and/or col. 1 (line 13 "TCP/IP").

21. Per claims 5 and 6, see col. 3 (line 33) where masking the subnet is posing (excluding the current subnet) on an external subnet.

22. Per claim 7, such was the ARP cache in paragraph 19 above.

23. Per claim 8, see col. 1 (line 38).

24. Per claims 9, 10, 11, and 12, see paragraph 20 above.

Art Unit: 2142

25. Per claims 13, 14, 15, 16, and 17, see paragraph 21 above,

26. Per claim 18, see col.3 (line 24 "router").

27. Per claims 19, 20, 21, 22, 23, 24, and 25, see col. 4 (lines 19-39) and col. 3 (lines 15-45 for router) where a search is conducted to find unused available IP network addresses to be assigned to a device or devices.


28. Per claims 26-40, these claims do not teach or defined above the correspondingly rejected claims given above, and are thus rejected for the same reasons given above (i.e., the recited list above was also a database within the ARP cache) and where the IP network address(es) used in the system where also part or apart of the overall network configuration.

29. A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) days from the data of this letter. Failure to respond within the period for response will cause the application to become abandoned (see MPEP 710.02, 710.02(b)).

30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Harrell whose telephone number is (571) 272-3895. The examiner can normally be reached Monday thru Friday from 5:30 am to 2:00 pm and on weekends from 6:00 am to 12 noon Eastern Standard Time.

31. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack B. Harvey, can be reached on (571) 272-3896. The fax phone number for all papers is (703) 872-9306.

32. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.

  
ROBERT B. HARRELL  
PRIMARY EXAMINER  
GROUP 2142